

[author's draft of a paper accepted for publication in Cultural and Social History 2016]

“Not just the ideas of a few enthusiasts”: Early Twentieth Century Legal

Activism and Reformation of the Age of Sexual Consent

Abstract:

In July 1885 a reluctant House of Lords was eventually persuaded to pass the Criminal Law Amendment Bill after three years of intense Parliamentary debate and prompted by W.T. Stead's shocking expose of the Maiden Tribute scandal. The 1885 Act finally, and controversially, settled the age of sexual protection for young girls at sixteen years but this threshold would be repeatedly contested over the next four decades. Moral campaigners continually sought to exert pressure on the Home Office to reform what we now recognize as a legal age of consent. But their contradictory demands to impose repressionist measures to punish young girls for sexual immorality while simultaneously lobbying for a more protectionist stance against sexual defilement made any legislative consensus impossible. This article explores and teases out the associated socio-legal complexities of such contradictions which, somewhat ironically, served as a stark rehearsal for the passage of the Criminal Law Amendment Act 1922. An Act which did no more than simply reiterate the 1885 determination that sixteen years should be the age of consent, a provision that has endured well into the twenty-first century.

Keywords: legal activism, age of sexual protection, age of sexual consent, Criminal Law Amendment Bills; regional and chronological spread; Britain; early twentieth century

Introduction

The first two decades of the twentieth century witnessed the rise of an essentially morality-based form of legal activism intent on persuading the government of the day to enact a litany of repressive legislation that would control a range of social behaviours regarded by certain 'right-minded' and typically middle class individuals as sexually immoral.

Earlier incarnations of such crusades and social purity movements pioneered by organizations such as the Vice Society and Society for the Protection of Public Morals had sought to *educate* the populace rather than *legislate* by promoting instruction in the 'reformation of manners', 'suppression of vice' and consciousness of 'moral hygiene'. Although statutory regulation during the latter half of the nineteenth century had intensified in response to the pressures of Victorian industrialization, successive late nineteenth and early twentieth century governments were less willing to criminalize immoral behaviour by enacting legislation as emphasised by Mort in his reference to the 'reluctant state'.¹

As the old century segued into the new in the face of declining confidence in Victorian imperialism, Edwardian society and its moral perspectives started to shift like tectonic plates, loosely divided into those intent on preserving the status quo of Victorian moralism and conservatism in opposition to radical ideologists who sought liberation from its repressive constraints. The former found the means to express their views and exert influence on the 'reluctant state' by joining increasingly activist social purity organisations intent on re-moralizing society by campaigning for legislation to control the 'immoral' behaviours of the working class.² These included voluntary, charitable and religious societies, notably the Salvation Army, National Vigilance Association (NVA), London Council for the Promotion of Public Morality (LCPPM), the Christian Church, social hygienists and the women's movement. Such bodies were united in believing that the criminal law could be invoked as an 'effective instrument' to improve morality and extinguish vice consequently setting the tone of public and political debate.

Confronted with an array of organizations demanding the imposition of legislation to endorse moral standards and minimize 'demoralization' by punishing perceived transgressions, both Liberal and Conservative governments from 1880 to 1920 continually tried to ignore or delay such representations. The Home Office was subjected to persistent lobbying from morality groups who presented numerous petitions, sent regular deputations, and encouraged their members to send letters to the Home Secretary as well as the national press. Unsurprisingly, the more the government resisted, the more dogmatic the activists

became, leveraging their way into Whitehall, promoting their concerns at public meetings and co-opting high profile sponsors and speakers. While such campaigns did significantly influence the government's political agenda and legislative programme they rarely accomplished any actual substantive legal change, not least because many of the reforms proposed tended to be self-defeating making it impossible to draft coherent legislation. In particular, demands to censure greater public awareness and education about matters relating to sexuality and procreation conflicted with punitive measures to safeguard vulnerable young girls from sexual defilement and prostitution in order to 'protect' them from themselves. Similarly, while certain women were perceived as the cause of much demoralization the general moral authority of women was respected as a means of persuading both sexes to exercise self-control.

This paper highlights examples of such forms of legal activism to illustrate the extent to which the conflicting agendas and self-interests of those pressing for reform could influence or aggravate the likelihood of effective legislation being enacted. It focuses on the repeated campaigns and attempts to reform the age of sexual *protection*, established in the Criminal Law Amendment Act 1885 (CLA Act 1885) at sixteen years and which we now understand and refer to as the age of sexual *consent*. Despite the apparent failure to secure their desired aims the efforts of these moral reformers were not entirely unproductive. Undoubtedly much moralistic legal activism of the period was instrumental in stimulating public debate about the extent to which the law could and should interfere with the private world of sex and sexuality. It was also fundamental in persuading a largely ambivalent Home Office to acknowledge such controversial agendas, confront the arguments for and against potential criminalization, and reflect upon the likelihood of steering any consequent Bill through Parliament.

From a historiographic perspective, the preliminary 1883-1885 parliamentary debates preceding the enactment of the CLA Act have been relatively well-trodden by social and feminist historians primarily Thomas, Walkowitz, Bland, Jackson and Laite, particularly in the context of child prostitution and the powers of the police to 'detain fallen girls'.³ But

significantly less attention has been paid to teasing out the legal aspects of the subsequent implementation of the legislation and associated arguments for reforming the age of consent, possibly, as debates published in Hansard confirm and Home Office papers reveal, because of the complexity of tracking the legislative amendments proposed. Sheila Jeffreys was one of the first to emphasise the significance of the age of consent legislation criticising historians who have only 'tended to see it as the result of a reactionary, puritanical, anti-sex lobby. It has been taken out of the context of what was actually a massive, multifaceted campaign on the issue.'⁴ Jeffreys demonstrates how early feminists utilised the contemporary discourse surrounding child sexual exploitation to promote their own radical agendas and cautions that while many campaigners 'were self-consciously feminist, there were those who, representing the Church Army and the Mothers' Union, probably were not.'⁵ Arguably, such female activism tended to concentrate more on achieving social purity through the eradication of prostitution by providing practical help to rescue 'immoral' girls rather than engaging in the male dominated legal debates to formalise a legislative age of consent, or indeed forming any consensus on what that age threshold should be. As Bland affirms, 'Many feminists in this period held as one of their key objectives the purification and civilisation of both public and private worlds.'⁶ Other feminist historians, including Purvis, Bruley and Vickery,⁷ have critically challenged the submissive ideal of femininity as encapsulated in the separate spheres and Hall has usefully synthesised the historiographic literature regarding the 'double moral standard' whereby female sexuality was legally controlled by men acting in their own self-interest and according to their masculine moral standards.⁸ Purvis examines this further in the context of the women's movement and Christabel Pankhurst's *The Scourge* but while she argues that the double moral standard and the Suffragettes' moral crusade need to be situated within 'a particular historical, legal and social context', she prioritises the repeal of the Contagious Diseases Acts and does not refer to the debates or impact of the CLA Act.⁹ Arguably, the absence of any major contemporary woman-initiated legal debate post-1885 informed by such moral judgment might go some way towards explaining why it has been largely unnoticed by feminist

historians, and also why it was primarily left to male legal minds and politicians to present and respond to any proposed legal reforms.¹⁰

The age threshold of sixteen years problematically established by the CLA Act 1885 was subsequently heavily contested by moral activists and campaigners for another forty years until finally confirmed in the Criminal Law Amendment Act 1922. Legally, the age of consent has endured at sixteen to the present day as affirmed by the Sexual Offences Act 2003, but it has again started to reappear on the public radar. Recent recommendations that it be lowered to fourteen, or even thirteen years, primarily to decriminalize teen sex have incited controversy and divided opinion reflecting similar concerns to those raised a century before.¹¹

1 Activating Activism over the Age of Consent

In order to secure any legal moral reform two pre-existing conditions or contexts must be present. Firstly, a dominant politico-legal will within government reinforced by strong support from the Home Office to invoke the law to criminalize immoral behaviour. Secondly, as J.S. Mill had advocated, only a consensual conceptualization and acceptance of ('immoral?') behaviours classified as unambiguously criminal and where there is a clear and demonstrable physical harm, should justify a legitimate target for state enforced prohibition.¹²

In relation to sexual consent, whether based on age (or gender), the underlying contestation was essentially a jurisdictional one: whether sexual activity with young people (or members of the same sex) should be a legal matter punishable under the criminal law; or a 'moral' sin to be alleviated informally through 'education' and religious dogma. Supporters who favoured the legal option were split between those who fervently believed in the need for universal child protectionist legislation, and moral puritans who wished to 'criminalize' and punish all 'immoral' young girls who engaged in or 'encouraged' sexual activity classifying them as child prostitutes.

The state had already demonstrated its reluctance to use the criminal law to such ends as illustrated in the agonistically lengthy debates over the Criminal Law Amendment Bills 1881-85. The Bills were a direct response to the *House of Lords Select Committee on the Protection of Young Girls 1881* which inquired into the trafficking of young English girls to the Continent for immoral purposes.¹³ The proposed reforms owed much to the efforts of the London Committee for the Suppression of the Traffic in Young Girls (created 1879) promoted by Alfred Dyer, Josephine Butler and William Shaen, and the Central Vigilance Committee for the Repression of Immorality (founded in 1883).¹⁴ Concerned about the highly controversial Contagious Diseases Acts (repealed a year after the CLA Act was eventually passed in 1885) the Home Office typically refused to sponsor the Bills, and the Commons, repeatedly and disinterestedly, refused time to debate them.¹⁵ The legislation was primarily engineered by the Lords who were deeply divided about whether the law should be invoked to criminalize sexual activities that many perceived as a purely 'moral' matter to be addressed through public and/or religious 'education'.¹⁶ And even when, in 1883, they fleetingly compromised and agreed that the threshold of consent be sixteen, Gladstone's government rejected the Bill as poorly drafted and 'not of a character to inspire confidence in the legislative capacity of the Lords'.¹⁷

Pre-1885, modern conceptions of an 'age of consent' did not exist as neither women nor young girls were allowed any sexual autonomy. Sexual intercourse was only legitimate within marriage so typically it related to the age at which a girl could be contracted into a lawful marriage. Sexual penetration with a girl (married or unmarried) below any permitted age threshold would constitute rape if non-consensual or violent but girls who 'acquiesced' to sexual advances were not afforded any legal protection. The term was also used slightly differently in some colonies to refer to the age at which consummation of marriage through 'consensual' sexual penetration was lawful.¹⁸

The first legal reference to an age of consent can be found in the Statute of Westminster 1275 which set it at twelve years. Elizabeth I lowered it to ten (Act of 1576) but it reverted back to twelve (Offences Against the Person Act 1828); then it was increased to

thirteen (s.4 Offences Against the Person Act 1875) and was finally settled at sixteen with the CLA Act 1885. The age of marriage remained at twelve until the Age of Marriage Act 1929 increased it to sixteen years. The establishment of such legal thresholds in the nineteenth century should therefore be understood as developing an 'age of protection' below which perpetrators who defiled young girls could be prosecuted. Child philanthropists like the Earl of Shaftesbury believed that only the law could safeguard young girls.¹⁹ But in the shadow of the double moral standard proposals to increase the age of consent threshold to sixteen years met considerable masculine opposition. 'Immoral' girls were often regarded in the same way as prostitutes falling 'outside the rights accorded to the rest of society'.²⁰ As Grey confirms, conservative moralists pandered to the 'double standard of sexual morality which reached its peak' during the furore over the Contagious Diseases Acts that men needed to be protected from 'immoral' girls who might seduce and entrap them.²¹

Ultimately, it was W.T. Stead's 'shocking exposé' of the *Maiden Tribute to Modern Babylon* published in the *Pall Mall Gazette*, 6 July 1885, which moved the issue of raising the age of consent forward.²² The day after it appeared, the Lords (somewhat 'coincidentally') managed to reach a compromise and sent a Letter of Convocation to the Home Office asserting their 'deep conviction that the Bill should become law without delay'.²³ The government were initially unyielding but, when Mr H.H. Foster MP agreed to sponsor it as a less controversial Private Members' Bill, changed their view not wanting to be seen as disinterested in the protection of young girls.

Consequently, the CLA Act 1885 marked a new development in the law of child protection criminalizing child prostitution and trafficking, (or in modern parlance, child sexual abuse and grooming). Section 5 made the carnal knowledge (defilement) of a girl aged between thirteen and sixteen a misdemeanour punishable with two years imprisonment in effect settling the age of 'consent' to sexual intercourse for girls only at sixteen.²⁴ The unlawful carnal knowledge of a girl under thirteen (statutory rape) remained a felony punishable with life imprisonment. Laite describes this as a 'watershed moment for feminist moral reform movements surrounding prostitution' and Summers and Hall highlight its

significance in providing the background context that facilitated the prosecution of offences of sexual abuse and exploitation instigated by social purity bodies.²⁵ Inspired by Josephine Butler such societies would now take on the responsibility for pressing for further legal reform. Although few contemporaries regarded it in this light, the Act heralded a shift in social and political attitudes that would later facilitate much early twentieth century child protectionist legislation such as the Punishment of Incest Act 1908 and Children Act 1911.²⁶

2 Legal Headaches

With the ink hardly dry and given its antecedents, it quickly became evident that the Act would be largely ineffective and what should constitute the appropriate age of consent - all ages from twelve to eighteen years had been proposed at some stage - remained controversial. A folder in the Home Office archives entitled 'Reported defects in Criminal Law Amendment Act 1885' confirms this as does an undated note that 'Records on this enactment are defective'.²⁷ Almost immediately the Home Office started to receive correspondence from the magistracy, judiciary and police representatives together with Memorials from Poor Law Unions identifying legal faults in the statute reflecting their particular perspective and agitating for reform. The first letter, sent from Mr Bruce, the stipendiary magistrate at Leeds, was received just a few days after the Act was passed querying whether an accused could claim a defence if he believed (reasonably or not) that the complainant had consented. Bruce suggests this must have been an 'oversight ... such an omission can hardly have been intended by its framers', and apologises for 'troubling' the Home Secretary on such a 'disagreeable subject' reflecting the wider public reluctance to openly engage with the subject of sexual regulation.²⁸

There was further confusion over whether a charge of rape should be preferred where factual 'consent' was ambiguous, not present, or a witness was too young to give sworn testimony. In June 1883 Sir Adolphus Liddell, Permanent Under Secretary, had tried to convince the Home Office to include the words 'with her consent' to distinguish section 5 from rape but to no avail.²⁹ Liddell's replacement, Sir Godfrey Lushington, advised the Home

Secretary, Viscount Cross, that Bruce's point was 'entirely for the legislature ... the omission was not an inadvertency', and that a jury could acquit the defendant of rape but find him guilty of 'section 4, 5 or indecent assault'. Cross's note closes both matters: 'This appears to justify the present state of the law and to give good grounds for thinking it is in conformity with the real intentions of Parliament.'³⁰ Thus while the Home Office appeared content with the reforms and were reluctant to revisit these clauses, the judiciary and magistracy found it difficult to operationalize them.

Such immediate and reactive criticism to a laboriously debated statute was undoubtedly perceived by the Home Office as a warning to tread with caution and become more actively engaged in the direct supervision of criminal legislation. This was reinforced by the fact that not a single prosecution was instigated directly after the statute came into force, vindicating Stead's prescient comment that 'legislation will not make all that much difference.'³¹ Payne, in an unpublished review of sexual offences covered in *The Times* from January 1884 to September 1886 agrees but more optimistically notes that 'the number of cases reported suggests that parents and politicians alike took the problem of sexual assault upon children more seriously after the summer of 1885.'³²

The lack of prosecutions was largely due to the difficulties of enforcement. The establishment of the modern state sponsored prosecution system to enforce the criminal law under the authority of the Director of Public Prosecutions had only recently been introduced in 1879. Prosecutions were therefore largely dependent on voluntary organizations that had lobbied for the law sponsoring private prosecutions such as the Central Vigilance Society for the Repression of Immorality, Vice Society and Associated Societies for the Protection of Women and Children. This also meant they had to bear the legal costs. The courts could reimburse some costs on application, but in 1887 the Home Office announced that such costs could no longer be recovered from the public purse. This restricted the number of private prosecutions causing a gradual shift whereby the police increasingly undertook a more active role, gathering evidence, liaising with purity groups and instigating prosecutions.³³ A very real practical difficulty for prosecutors, public or private, was the

imposition in section 5 of a three month time limit within which proceedings had to be commenced. In autumn 1899 the Home Secretary received a number of memorials from Poor Law Unions supporting the Meriden Union's resolution that this time limit be extended to at least twelve months from the commission of the offence, the Central Vigilance Society for the Repression of Immorality also lobbied urging an extension to nine months.³⁴

Lushington's replacement, Sir Kenelm Digby, acknowledged that the provision had been a response to 'grave fears that the statute would lead extensively to blackmailing' from prosecutions 'prompted by pique, jealousy or a desire to extort.' Digby was sympathetic to the Union's views remarking that 'such fears had proved to be largely unfounded,' and that a twelve month amendment had been included in the current CLA Bill 1896 to resolve the problem.³⁵ This was never enacted reprising the delays surrounding the 1885 legislation. While the number of prosecutions did start to increase, the combination of the three month prosecution limit and the 'escape clause' permitting many defendants to successfully claim that the complainant had 'consented' shattered the conviction rate. By 1912 50% of prosecutions under section 5 resulted in acquittals as confirmed in a letter from Sir Edward Troupe Permanent Secretary to the Home Secretary Sir Herbert Stephen: 'We have of course no figures to show how many acquittals were due to the proviso but I understand that it frequently affords a successful defence and certainly the probability of acquittal on that ground is sometimes the reason for deciding against a prosecution.'³⁶

These concerns had been the subject of major disagreements in the Lords, and would be subject to continual debate until finally settled in the CLA Act 1922. The 'sexual protection/consent problem' was repeatedly raised by moral campaigners causing consecutive Home Secretaries, irrespective of political ideology, to avoid the issue, adopt stalling tactics or prioritize other matters.³⁷ Parliament was frustrated with the continual introduction and reintroduction of nearly two dozen bills, hundreds of amendments and innumerable concessions contesting the threshold of consent and the defences those charged with sexual defilement might claim. But what the 1885 Act did facilitate, indirectly and unintentionally, was to successfully pave the way and open the metaphorical Home

Office door for social reformers to more actively lobby and push forward their agendas to criminalize activities that they perceived as 'immoral'.

Next to inherit the mantle of navigating his minister through the confusion and conflicting objectives of moral activists both radical and conservative, was the indomitable Sir Edward Troupe. With a first from Oxford in Mental Philosophy he appeared to conform to the Home Office civil service stereotype of a 'predominance of Oxford men with good greats degrees.'³⁸ But Troupe, the son of a Scottish Congregationalist minister from Aberdeen, was atypical. He was the first, in 1880, to secure a Junior Clerkship at the Home Office through open competition. Mentored under Lushington (1875 to 1895) who was 'scrupulous about the Home Office attending to legality and constitutional propriety in its execution of policy', Troupe assisted in building 'up the criminal department of the office into the first modern specialist branch.'³⁹ In 1903 he became Assistant Secretary and, on receipt of his knighthood, Permanent Under Secretary from 1908 to 1922. Regarded as a shy and dour Scot somewhat lacking in charisma, Troupe proved himself a conscientious administrator earning considerable respect as a modernizing force that pushed the Home Office into the twentieth century making it an effective, and more bureaucratic, institution. In 1913 he restructured the department creating six new Divisions, A to F, each under the supervision of an Assistant Secretary. Division D, described by Pellow as the 'rag-bag' division,⁴⁰ clearly constituted the 'immorality' portfolio and smacks of the double moral standard, ironically juxtaposing responsibility for the protection of children from cruelty and the control of white slave traffic, with the regulation of obscene publications and 'establishments'.

From 1887 Troupe worked on most departmental Bills introducing a more systematic approach tracking their progress and archiving all related data and memoranda.⁴¹ It is probably his handwritten note on the front of the Home Office file 'on the defects in the CLA Act' indicating that no memoranda survives from the 1885 construction to explain why some sections of the Act alter widely from the original Bill.⁴² From 1892 to 1921 over a dozen Bills were introduced attempting to address the issue of consent making Troupe a considerable expert on sexual protection. He also proved to be a highly astute manipulator utilising his

adherence to legal minutiae and procedure to thwart the ambitions of those seeking radical reform until the Criminal Law Amendment Bills 1919 and 1921 secured the negligible result of extending the prosecution limit from three to six months, a concession for those who had long argued that twelve months would be abused by young women as a blackmailer's charter against 'unsuspecting' men to extort money.

Summary of legislative developments 1892-1922

1892 Bill to Amend the Law relating to the Seduction of Women

1896 Criminal Law Amendment Bill

1910 Morality Bill

1911 Bill to amend the CLA Acts 1880 and 1885

1911 Bill with respect to persons living on the earnings of prostitution

1911 Bill in respect of the procuration of women and young girls.

1911 CLA Bill (White Slave Traffic Bill) to consolidate and amend CLA1885, and
Vagrancy Act 1898

1911 Prevention of Immorality Bill

1912 HC Standing Committee A on the White Slave Traffic Bill

1912 CLA Bill

1912 consolidating Criminal Law Amendment Acts of 1885 and 1912

1913 CLA Bill to consolidate and amend CLA1885, Vagrancy Act 1898

1914 Bishop of London's CLA Bill

1917 CLA Bill (huge list of amendments proposed)

1917 Report of HC Standing Committee A on CLA Bill

1918 Joint Select Committee appointed

1918 Joint Select Committee Report on CLA Bill and Sexual Offences Bill

1919 Joint Select Committee abandoned (Parliament dissolved)

1920 CLA Bill reintroduced

1920 Joint Select Committee Report on CLA Bill, CLA (no 2) Bill and Sexual Offences Bill

1921 Report from HL Standing Committee on CLA Bill

1921 CLA Bill presented for third time and rejected by House of Lords

1922 CLA Act

3 Lobbying the Home Office

Social purity organizations had lobbied hard in the nineteenth century to push their agendas forward. Hynes notes that such activism reached unusual heights during Edward's reign describing the early twentieth century campaigns as 'the organization of morality'.⁴³ Cox et.al., argue that by the Edwardian period there was an intensification of legal activism led by the NVA and LCPPM who wanted to ban a range of activities perceived as the cause of an increasingly demoralized society. Now more organized and with more members these bodies sought to impose an 'indecent agenda' targeting 'indecent' literature and other material including birth control propaganda, advertisements and theatrical performances as well as sexual behaviour.⁴⁴ Thane confirms that these 'social purity vigilantes' were keen to enforce the law to 'confine sexual behaviour within "normal" bounds' i.e. in private rather than in public, but they were not necessarily 'any more representative of widely held beliefs than were the other minority who explicitly challenged convention. They were, however, probably closer than the self-conscious sexual radicals to a dominant, though not necessarily puritanical, respectability'.⁴⁵ Even the leading women activists of the day gave some credence to the double moral standard, viewing married respectability or single celibacy as the preferred norm and being more concerned about stopping sexual exploitation by men than demanding their personal sexual freedom.⁴⁶ Political and social allegiances were now more complex making it 'possible to take up one liberating cause while remaining in other respects conservative'.⁴⁷ Attempts to reform or improve the law relating to the age of sexual protection therefore need to be considered within the context and 'noise' of such morality campaigns.

Between 1908 and 1911 many Bills fell foul of the constitutional crisis concerning the dominance of the House of Lords and resulting limitations on their power enacted in the controversial Parliament Act 1911. Grey confirms that unless there was unanimity across party lines it was virtually impossible to pass any law from the late nineteenth century to the 1920s.⁴⁸ Legislation such as the Indecent Advertisements Act 1889, Punishment of Incest Act 1908, some aspects of the Children Act 1908 and Venereal Disease Act 1917 which later penalized medical advertisements and texts, that were subject specific and with clear agendas at least narrowed the focus of debate and made enactment more likely despite sustained opposition. But the more generic Criminal Law Amendment Bills, Morality Bill 1910 and Prevention of Immorality Bill 1911 repeatedly failed to gain consensus because of their conflicting and inconsistent aims. Reformers firmly believed they were acting in the best interests of young girls in seeking to strengthen the provisions regarding prosecutions for sexual defilement, but paradoxically their repeated and often intransigent suggestions to commit and detain child 'prostitutes' who 'seduced' adult men into dissolute sexual activities albeit for their own protection and moral 're-education', complicated such aims. Ironically, all of this was played out against the backcloth of a 'Liberal' government, increasing democratization and an intensifying public backlash against Victorian moral hypocrisy.

Since the failed attempt of the 1899 version of the CLA Bill 1896 to extend the prosecution time limit to twelve months and clarify the defence of consent there was a relative period of calm until the issue was resurrected. In 1909 the Jewish Association for the Protection of Girls and Women and the NVA sponsored a second CLA Bill to amend the 1885 Act, the Vagrancy Act 1898, and fatally, permit the police to detain young women and girls. The latter had previously caused deep divisions between the Home Office and the Metropolitan Police when Sir Charles Warren, the Police Commissioner, had issued a 'laissez-faire' policy to his officers as they were unwilling to make such arrests.⁴⁹ The Bill was introduced in 1911 after a conference on white slave traffic in 1910 attended by the Chief Rabbi and Reformist Under Secretary at the Home Office, Herbert Samuel MP, a 'New Liberalist', future Liberal leader and promoter of the Children Act who would become Home

Secretary in 1916. Samuel strongly supported the Bill but ultimately failed to move it forward despite receiving a considerable number of letters and petitions in support.⁵⁰ He then pledged his personal support for a very similar Prevention of Immorality Bill also tabled in 1911 together with yet another Bill to amend the CLA Acts 1880 and 1885 that had already been tabled and two more on procuration and immoral traffic, along with other Rainbow circle members Ramsay Macdonald and Balfour.⁵¹

The first proposal of this forty-eight clause Bill was to raise the age of consent to nineteen and make it, and all the other existing offences in the CLA Act 1885 felonies punishable with ten years imprisonment where the complainant was under sixteen, and five years if over sixteen, something that was never going to be feasible. The Bill also contained some interesting if paradoxical provisions; protecting under nineteen year old youths from immoral women (two years imprisonment) but reducing the maximum sentence for those convicted of rape to ten years, or fifteen years in aggravated circumstances. The distraction of yet 'further provision for the suppression of indecent, immoral, and grossly offensive literature, pictures, advertisements' and living off immoral earnings was guaranteed to complicate any protectionist aspects. Unsurprisingly, the Bill was lost at its Second Reading but was reintroduced in 1912 and then lost a second time, albeit with the age of consent provision removed.

Simultaneously, the 1911 CLA Bill to consolidate and amend the CLA Act 1885, Vagrancy Act 1898 and now the Immoral Traffic (Scotland) Act 1902 to harmonize Scottish law, particularly in respect of the immoral earnings of 'pimps, soutoneurs and bullies of either sex' was given its brief First Reading in the Commons in July 1911. Erroneously called the White Slave Bill, Mr Booth MP mooted that there were perhaps 'no more than 6 men in the House who had the slightest knowledge' of its provisions indicating the confusion caused by five Bills on the same subject presented in the same Parliament.⁵² The Bill did not even expressly address the age of consent. Uninformed debate raged about the appropriateness of flogging for under age sex and procuration, how to prove a person lived off immoral

earnings, and the controversy of giving the police powers to detain young women and girls 'loitering' in order to 'purify' the streets.

Opposition Conservative MP, Mr Arthur Lee, presenting the Bill for its Second Reading confirmed there was a consensus in that 'it represented not the ideas of a few enthusiasts, but the considered judgements of practically all the *important societies* engaged in the suppression of the white slave traffic' (hence the confusion caused by this reference) as well as the Home Office and the police.⁵³ By June 1912, it had been moved over 100 times in the Commons but the government made no effort to pass it largely because: 'There are clauses which would require, and which would get, very scathing criticism in the other House.'⁵⁴

Those frustrated with the withdrawal of the Immorality Bill were further incensed. Lady Proctor, the President of the Young Women's Christian Association sent a memorial to the Prime Minister (Asquith), Chancellor (Lloyd-George), Leader of the Opposition (Bonar Law) and others expressing their 'deepest concern over the continual blocking of this Bill,' and requesting the inclusion of new amendments that the 'age of consent be raised to 18' and the proviso repealed.⁵⁵ The explicit reference to an age of consent acknowledges the shift in discourse from an age of protection and desire for this to be enshrined in legislation. On 14 October, Arthur Lee led a large deputation to meet the newly appointed Home Secretary Reginald McKenna, demanding the Bill be enacted and the police power removed. The 'important societies' represented included the Jewish Board of Deputies, NVA, LCPPM, National Free Church Council, Church Army, Salvation Army, Union of Women Workers, Ladies National Association, Ragged School Union, and the Alliance of Honour. The dogged persistence of these agencies demonstrates Hynes' point that seemingly diverse groups could find accord on issues of relative interest and persuade the state to engage with their agenda. As Fletcher confirms, 'the efforts of the "moral entrepreneurs" of the social purity organizations and the churches certainly took the lead in steering this panic towards their legislative goal, along the way overcoming the doubts of what Frank Mort calls the "reluctant state"'.⁵⁶

McKenna made 'a firm determination that the Bill would carry through its stages' but ultimately the requested amendments were ignored and only minor amendments secured.⁵⁷ The CLA Act 1885 was renamed the Criminal Law Amendment Acts 1885 and 1912 achieving little other than tightening the law regarding brothels, increased sentences for procurers, and harmonizing Scottish law. Given there were 373 Bills to be considered in the 1911 session alone, including some major constitutional reforms, arguably it is of some significance that even these were passed.⁵⁸ In his memoirs Troupe notes, somewhat proudly (and maybe a little smugly) that 'the law is more stringent than in any other country'.⁵⁹

4 An Unlikely Alliance? The Bishop's Bill

A significant driver of those pushing for legal reform, even if it failed to achieve any agreement on the desired result, was the involvement and acceptance of women as representatives of particular activist groups or as key speakers and sponsors, especially at a time when public opinion was polarized on female suffrage. While women were not allowed to be part of the law making process and were denied the opportunity to debate legislation of relevance to them, indirectly they were forcing their voices to be heard in the public domain about matters that would personally affect them or womanhood more widely.

In 1913 a sense of déjà vu is evident as the 'important societies' again attempted to resurrect the failed 1911 CLA Bill (to amend the CLA Act 1885 and the Vagrancy Act 1898) to 'make further provision for the protection of Women and Young Girls, and with respect to prostitution'. For the first time the phrase '*sexual* morality' was used making the aim of protection from sexual exploitation more explicit. The Bill reproduced the now familiar provisions concerning the reduction of the maximum sentence for sexual offences including rape to ten years, to disallow any defence of consent for defilement and increase the prosecution limit to six months. A proposal to reintroduce a sentence of corporal punishment i.e. flogging, in addition to three years imprisonment for the rape and carnal knowledge of a girl under twelve years might raise eyebrows in terms of modern understandings of the

practices employed in child sexual abuse but in 1913 such irony was absent.⁶⁰ For the first time ever male victims were acknowledged with the proposal of an age of consent of sixteen for indecent assaults on boys and seventeen for girls. The felony of sexual intercourse with a girl under thirteen was to be raised to fourteen years and the crime of incest extended to uncles, aunts, nephews and nieces. There was also a bid to hold certain court hearings *in camera* not to protect victims but to shield the public at large from hearing the real life details of sexual perversions.

McKenna was again unwilling to sponsor the Bill and instead took the opportunity at the Fifth International Conference of Suppression of White Slave Traffic in July 1913 to praise the developing international co-operation to tackle the white slave problem. Refusing to re-examine the domestic position regarding defilement he claimed it was too early to assess the impact of the CLA Act 1912 except that 'it could not be otherwise than of great benefit.'⁶¹ Arthur Lee attended the conference as did Arthur Winnington-Ingram, the Bishop of London, who was to spur on the campaign for legal reform.

In 1914 the Bishop of London sponsored the reintroduction of the 1911/13 Bill, now known as the 'Bishop's Bill', to increase the threshold for sexual consent to eighteen years. A Victorian moralist, Winnington-Ingram became President of the LCPPM. Despite being regarded by the Women's Social and Political Movement as unsympathetic to their cause, he reportedly stated that 'if women were allowed the vote, 1 million of them would support the [CLA] Bill without delay'.⁶² In stark contrast in the Lords, Conservative peer Viscount St Aldwyn asserted that 'the right reverend prelate underrates the sense of women ... the increasing share of women in public affairs was unfortunate ...[as they are] ... generally more impulsive, far more actuated by sentiment and personal feeling than men. Men are more given to reason and judgment.'⁶³ Winnington-Ingram responded by recruiting 291 peeresses and wives of bishops to sign a petition to the Lords: 'We earnestly request your lordships to pass the bill ... we believe it to be urgently required and of really vital importance in the interests of unprotected girls.'⁶⁴ His initiative was reported, albeit briefly, in the *Daily*

Express and the *Daily Mirror* but, interestingly, not in *The Times*'s regular Court and Church circular apparently reflecting the strategy of the new tabloids to attract more women readers

Winnington-Ingram's patronage illustrates the repressive/protectionist discord as he strongly believed that the CLA Acts 1885 and 1912 needed improving to make it easier to prosecute cases of defilement of girls under sixteen by removing the defence of consent and increasing the prosecution time limit to six months. Unfortunately, his Bill was still a 'confused mix of liberal clauses for the *protection* of young girls, *repressive* clauses against prostitutes and medical clauses penalizing the transmission of venereal disease.'⁶⁵ At the Second Reading in the Lords, Lord Landsdowne asked the Lord Chancellor if the Home Office 'was in the position to give the assistance without which it would be very difficult to consider the Bill.' Viscount Haldane responded that the Home Office was not ready but if the Bill were to be delayed a few weeks that would allow time for experts to be consulted to permit it to move forward.⁶⁶

While the Bishop agreed to the postponement others were not pleased. A Criminal Law Amendment Committee of sympathisers was formed in Parliament which became known as the Pass the Bill Committee. It immediately joined forces with the NVA to press the Home Office to appoint women police officers on an equal status to men to take depositions from women and children in cases of immorality as a means of increasing prosecutions.⁶⁷ In 1916, in association with the strident Women's Police Service, the Committee organized a public meeting with the Lord Mayor urging their full admission into the Police Force. Lady Nott-Bower, wife of the Chief Constable of the City of London Police and active supporter of the CLA Act 1912 said 'it was a crime and blunder to put a young child in Court when only men could ask questions'. The motion was unanimously carried and the first women police appointed in 1918/1919.⁶⁸

Meanwhile the Home Office was being pressured from all sides. Proponents, primarily the Bishop and the LCPPM, continued to send regular correspondence requesting tighter

regulation and prosecution of 'immoral' practices generally.⁶⁹ Opponents, including the Women's International League, Women's Freedom League and various militant suffragette societies, who believed that progress was too slow or the proposals ineffectual, organized protest meetings such as one held at the Central Hall, Westminster. The Metropolitan Police sent a constable to secretly take notes who reported back that the audience was augmented by the 'usual retinue of vegetarian, religious and other eccentrics'.⁷⁰ The speakers included two MPs, Mr Dickens for the opposition and Josiah Wedgwood for the Liberals who agreed that 'the whole scheme of the Bill was the state organization and regulation of Vice', which could not be reconciled with girls under eighteen 'who made a slip' and should not be classified as a 'prostitute' and 'looked on worse than the man concerned.'⁷¹ The new Home Secretary, Sir George Cave, refused to sanction such surveillance asserting it was a 'great waste of time for the police to attend and take notes of such meetings' and he remained indifferent about the officer's report: 'the Home Office hears quite enough of this stuff.'⁷²

In March 1917 the Bill was referred to the House of Commons Standing Committee which spent days debating whether the age of consent should be raised from sixteen to seventeen.⁷³ The Bill stalled as opinion was equally divided amongst the committee: twenty one to twenty against raising the age limit and twenty one to twenty to extend the prosecution limit to twelve months and keep the proviso.⁷⁴ In July, the Archbishop of Canterbury decried the fact that three years after the Bishop's Bill was first introduced there was still no sign of any enactment. Lady Nott-Bower and Winnington-Ingram headed another deputation to see Cave with representatives from the National Union of Women Workers, the LCPPM, the chief rabbi, and the Bishops of Southwark and Westminster. Cave, in typical fashion hedged his bets acknowledging that it was a most urgent matter but that 'raising the age of consent requires careful thought.'⁷⁵

Twelve months of supposedly 'careful thought' later and in July 1918 a Joint Select Committee chaired by Lord Muir Mackenzie was presented with the Criminal Law and Sexual Offences Bill, a virtual replica of the 1917 proposal maintaining the age of consent at sixteen.⁷⁶ Influenced, it seems, by his advisors (notably Troupe) Cave was still reluctant to

enable reform. Troupe wrote to Cave's Legal Under-Secretary that 'raising the age of consent is not likely to lead to many more convictions. As the law stands, juries will not convict where consent is favoured and the girl is of indifferent character, Judges encourage them in this. Mowlatt J recently directed acquittal in two cases on the grounds that the girls were prostitutes!'⁷⁷

Cave heeded Troupe's advice and the Bill was stymied, hijacked by the usual insoluble questions on prostitution and venereal disease exacerbated by the dissolution of Parliament in November 1918 which led to Sir Edward Shortt replacing Cave in January 1919. Exasperated, Winnington-Ingram wrote on behalf of the Pass the Bill Committee to Shortt who proved to be just as obstinate as his predecessor. The Bishop eventually received a response in May urging him to reintroduce the Bill but to limit it to the 'non-contentious points' of raising the age of consent from thirteen to sixteen for indecent assault; extending the prosecution limit to twelve months; and removing the proviso.⁷⁸ But Shortt was only seeking to pacify the Bishop as evidenced in his response to a letter from Earl Jersey the same month: 'say to Earl Jersey that there is no likelihood of the government introducing a Criminal Law Amendment bill in the near future.'⁷⁹

In December 1919, in the Commons, the Prime Minister himself was pressed as to whether 'any action in regard to further inquiry [is] being made into this important question'.⁸⁰ Meanwhile, in the Upper House, Lord Sydenham asked the same question. The Pass the Bill Committee was reinstated but Winnington-Ingram remained unconvinced about the government's intent and wrote to Shortt requesting that a public announcement be made in *The Times* publicizing the Government's support.⁸¹ On 16 March 1920 a report duly appeared in the newspaper confirming that the Bill was being reintroduced a second time. There was agreement on the removal of the proviso, introduction of no defence of consent and the twelve month prosecution limit but as before these became side-tracked at the Committee Stage. Lord Dawson sensibly proposed an amendment that the proviso should apply only to men aged over eighteen but Parliamentary Counsel advised Troupe that 'a boy of 17½ can abuse a girl of thirteen ½ with impunity. Oppose.'⁸² To further complicate matters

in March 1921 the Bishop introduced another Private Member's Bill increasing the age of consent to seventeen. In the aftermath of the war, the influence and authority of moral societies, and to an extent the Christian Church, had waned, as one MP acidly noted 'a Bishop's Bill had never done any good.' Their morally repressive agendas now appeared superficial and irrelevant in the face of a (comparatively) more tolerant acknowledgement of and sensitivity towards feminist perspectives albeit the war had failed to 'bring about any fundamental change in the position of women'.⁸³

In 1921 Parliament was finally ready to accept the protectionist improvements that so many had pushed for. On 15 July, ironically virtually forty years to the day the 1885 Act was passed, Shortt sponsored the Criminal Law Amendment Bill at its Commons' Second Reading confirming that 'every single provision of the Bill had been approved by a Joint Committee of the House of Lords and the House of Commons.' The proviso was to be removed, the age of consent to remain at sixteen and the prosecution period extended to twelve months:

the object being to protect, not the children who had good parents to look after them, but the children who were neglected by their parents, and needed protecting against themselves ... If a man chose to take a risk with a girl with whom he had committed an immoral act might be under sixteen that was his affair. If he wished to remain outside the reach of the law he must make sure she was an adult.⁸⁴

Immediately Sir Frederick Banbury MP lamented that often it was the woman who was at fault yet only the man was to be prosecuted. Major Lowther MP insisted it must be proven that a girl was *virgo intacta* before any prosecution was instigated and, along with others, still sought to convince the House that (religious) education not legislation was the only means to 'cure' immorality.⁸⁵ The *Daily Mirror* was also irate postulating that the girl is often to blame and that 'promiscuity' can only be countered by moral not legal pressure.⁸⁶ And so the arguments started all over again though the Bill did manage to secure its passage through

the Committee Stage, but just when it was about to become law there was a final twist to the narrative. In the spirit of sexual, or at least legal, equality, the Bishop of Norwich proposed an amendment to create a new offence of gross indecency between females punishable in the same manner, a maximum two year sentence of imprisonment, as gross indecency between men. The Lords, including the former Director of Public Prosecutions, Lord Desart, and the Lord Chancellor, were vehemently opposed to the clause preventing any agreement with the Commons. As a result the Bill, including forty years of agonisingly agreed consent provisions, was lost altogether and a revised Bill criminalizing males who importuned others was substituted. After a further spurt of pressure, supporters managed to bring it back to the Commons the following year and the Criminal Law Amendment Act 1922 finally entered the statute book. The Act removed the defence of reasonable cause to believe that a girl was under sixteen, the protectionist approach, but mitigated the repression of this excision by the compromise of the young man's defence. If the accused was aged under twenty-three and had reasonable cause to believe that the girl was in fact under sixteen this would be a valid defence, this so-called young man's defence survived until 2003. The prosecution time limit was also finally extended to twelve months, this was removed completely by the Sexual Offences Act 2003. Consensual and non-consensual sexual relations between adult women were never criminalized until the Sexual Offences Act 2003 made all non-consensual sex offences apart from rape, gender neutral, and 'consensual' relationships with minors illegal.

Conclusion

The continual introduction and reintroduction of these CLA Bills reveal some of the highly complex and sensitive legal issues concerning the determination of an age of consent/non-consent. More significantly they also evidence the tensions and difficulties about who is responsible for 'regulating' sexual morality and the protection of minors: church, society or state? There is no doubt that moralistic legal activism was successful in persuading an ambivalent Home Office to at least confront and consider the desirability and liabilities of criminalizing sexual behaviour with young girls as clearly demonstrated in the

number of Bills presented to Parliament and amendments secured and lost. While such narratives can usefully illustrate the social context of the progress of legislative proposals it might be argued that only their metamorphosis into an Act can prove the essential confluence of intent and opportunity i.e. political will ultimately overriding the parliamentary timetable. But what such chronological reconstruction also demonstrates is the significant role that certain key individuals may play, consciously and subconsciously, in the development of the law through their participation in such long drawn out debates. The likelihood of any final legislative outcome can be seen to be heavily influenced by and ultimately dependent on the continued tenacity and commitment of such individuals something that, arguably, historians have tended to downplay. Without Troupe's informed counsel and accumulation of expert legal knowledge, the campaigner Winnington-Ingram's doggedness and determination to force the Home Office to react, or the 'new Liberalism' of Herbert Samuel's quest for social reform and child welfare, the issue may well have not dragged on for four decades. But equally such persistence ensured that every conceivable legal angle, consequence and implication was teased out, considered and analysed. While this may not produce the most efficient or cost effective form of law making it can result in the most informed, or in respect of the age of consent reaffirm that the 1885 threshold was and is the most appropriate.

These vignettes also show how repressive and often conservative styles of legal activism can actively encourage more counterbalancing forms of liberal activism. Each fed off the other promoting and normalizing the use of activism as a means of communicating with, and forcing governments to address, issues of popular and minority concern. Arguably it was this, rather than any formal enactment, that was the real and indirect success of such campaigns, facilitating the shift towards a more consultative style of policy making. Modern government is now more broadly receptive and likely to proactively elicit responses from activist and minority interest groups, arguably because in imposing their agendas the early twentieth century activists made such lobbying more politically acceptable. And after all the

decision in 1885 to set the age of consent at sixteen has held fast albeit it is now at odds with the practical reality of teenage sexual experience in the twenty-first century.

10,117 words inc footnotes

8,571 without

¹ Frank Mort, 'Purity, feminism and the state: sexuality and moral politics', in Mary Langan and Bill Schwarz (eds), *Crises in the British State 1880-1930* (London, 1985) p. 210.

² See David Cox, Kim Stevenson, Candida Harris and Judith Rowbotham, *Public Indecency in England 1857-1960* (Abingdon, 2015) ch.3 "'Demoralization" and moral activism'.

³ Donald Thomas, *The Victorian Underworld* (London, 1998); Judith Walkowitz, *City of Dreadful Delight: Narratives of sexual danger in late Victorian London* (Chicago, 1992); Louise Jackson, *Child Sexual Abuse in Victorian England* (London, 2000) chs. 2, 7; Lucy Bland, *Banishing the Beast: English Feminism and Sexual Morality 1885-1914* (London, 1995); Julia Laite, *Common Prostitutes and Ordinary Citizens: Commercial Sex in London 1885-1960* (Basingstoke, 2012); Ronald Pearsall, *The Worm in the Bud: the Victorian World of Sexuality* (Harmondsworth, 1969) pp. 358-78. In respect of the police detaining 'fallen girls' this relates to section 10 CLA Act 1885, an early protectionist provision that authorised a Justice of the Peace to issue a warrant giving the police the power to detain a woman or girl where there was reasonable cause to suspect that she was being unlawfully detained for immoral purposes such as in a brothel or house of ill repute.

⁴ Sheila Jeffreys, *The Spinster and Her Enemies: Feminism and Sexuality 1880-1930* (Melbourne, 1997) p. 54.

⁵ Ibid, p. 57.

⁶ Lucy Bland, 'Purifying the Public World: feminist vigilantes in late Victorian England', *Women's History Review* 1(3) (1992) pp. 397-412 at 398.

⁷ See for example, Amanda Vickery, 'Golden Age to separate spheres? A review of the categories and chronology of English women's history', *The Historical Journal*, 36(2) (1993) pp. 383-414; June Purvis, *Women's History: Britain, 1850-1945* (London, 1995); Sue Bruley, *Women in Britain since 1900: Social History in Perspective* (Basingstoke, 1999).

⁸ Lesley Hall, 'Hauling Down the Double Standard: Feminism, Social Purity and Sexual Science in Late Nineteenth Century-Britain', *Gender & History*, 16(1) (2004) pp. 36-56.

⁹ June Purvis, 'Fighting the double moral standard in Edwardian Britain', in Francisca de Haan, Margaret Allen, June Purvis and Krassimira Daskalova (eds) *Women's Activism: Global Perspectives from the 1890s to the Present* (Abingdon, 2013) pp. 121-135.

¹⁰ Josephine Butler and Millicent Fawcett were, of course, highly vocal activists in the late nineteenth century but compared to one of their feminist contemporaries, Barbara Bodichon, they were less conversant and engaged with the law. For example, Bodichon wrote 'A Brief Summary in Plain Language of the Most Important Laws Concerning Women' in 1854 and was a key activist in the campaign for the Matrimonial Causes Act 1857 and the Married Women's Property Act 1882. The ardent feminist Mrs Frances Swiney protested strongly against the sexual subjection of women arguing that the age of consent should be 18 but as a theosophist whose ideas influenced the more militant wing of the women's movement she automatically eliminated herself from any legal discourse: see Jeffreys, *The Spinster and Her Enemies*, pp. 35-39.

¹¹ See Kim Stevenson, 'It is What "Girls of Indifferent Character" do...' Complications Concerning the Legal Age of Sexual Consent in the Light of *R v C and others*', *Journal of Criminal Law* 76 (2012) pp. 130-39.

¹² John Stuart Mill, *On Liberty* (London, 1859) p. 18.

¹³ TNA: HO45/9547/59343/(I)284 Minutes re Genesis of Act; 'The Abduction of English Girls,' *The Times*, 14 April 1881; 'Parliamentary Intelligence, Decoying Young Girls,' *The Times*, 31 May 1881.

¹⁴ See further Jeffreys, *The Spinster and Her Enemies*, chs. 3-4.

¹⁵ See TNA: HO45/9547/59343/II/28 Minutes re Genesis of the Act.

¹⁶ *Parliamentary Debates* (Lords) 1883 cols.1390-1, 2390; 1884 cols.404-407, 1156-9.

¹⁷ Home Secretary, Sir William Harcourt, *The Times*, 8 August 1883.

¹⁸ For analysis of transnational ages of consent generally see Philippa Levine, 'Sovereignty and Sexuality: Transnational Perspectives on Colonial Age of Consent Legislation' in Kevin Grant, Philippa Levine and Frank Trentmann (eds), *Beyond Sovereignty: Britain, Empire and Transnationalism c.1850-1950* (Basingstoke, 2007) pp. 16-33. A specific example is India: the Age of

Consent Act 1891 following the CLA Act 1885 also generated considerable controversy, it raised the age of consent for girls from ten to twelve years as a means of tackling child marriage and pre-consummation before marriage which was a particular problem in Bengal. See Mrinalini Sinha, *Colonial Masculinity: The 'Manly Englishman' and the 'Effeminate Bengali' in the Late Nineteenth Century*, (Manchester, 1995) ch. 4.

¹⁹ See *Parliamentary Debates* (Lords) 1883 cols.1390-91

²⁰ Hall, 'Hauling Down the Double Standard', p. 39.

²¹ Daniel Grey, "'What woman is safe...?': coerced medical examinations, suspected infanticide, and the response of the women's movement in Britain 1871-1881', *Women's History Review*, 22(3) (2013), pp. 403-21.

²² Charles Terrot, *The Maiden Tribute: A study of the White Slave Traffic of the Nineteenth Century* (London, 1959); Deborah Gorham, 'The "Maiden Tribute of Modern Babylon" Re-Examined: Child Prostitution and the Idea of Childhood in Late-Victorian England', *Victorian Studies*, (1978), pp. 353-379.

²³ TNA: HO45/9547/59343/II/82.

²⁴ No equivalent provision was enacted for boys until the Sexual Offences Act 2003, section 9. See Kevin Porter and Jeffrey Weeks (eds), *Between the Acts: Lives of Homosexual Men 1885-1967* (London, 1991); Matthew Waite, *The Age of Consent: Young People, Sexuality and Citizenship* (Houndsmill, 2005) pp. 80-86.

²⁵ Laite, *Common Prostitutes and Ordinary Citizens*, p. 5; Anne Summers, *Female Lives, Moral State: Women, Religion and Political Culture in Britain 1800-1930* (Newbury, 2000) ch.3; Hall, 'Hauling Down the Double Standard' p.40.

²⁶ See Jeffreys, *The Spinster and Her Enemies*, ch 4.

²⁷ TNA: HO45/9547/59343.

²⁸ TNA: HO144/199/A40683B/1

²⁹ TNA: HO45/9547/59343I/5

³⁰ TNA: HO144/199/A40683B/3.

³¹ Terrot, *The Maiden Tribute*, pp. 186-7.

³² Jennifer Payne, The Criminal Law Amendment Act of 1885 and sexual Assaults on Minors
<http://www.geocities.com/Athens/Aegean/7023/Consent.html> undated (accessed 8 January 2016).

³³ Mort, 'Purity, feminism and the state,' p. 216.

³⁴ TNA: HO144/199/A47048/17.

³⁵ Ibid.

³⁶ TNA: HO361664/9.

³⁷ TNA: HO361664.

³⁸ Jill Pellew, *The Home Office 1848-1914 from clerks to bureaucrats* (London, 1982) p. 33.

³⁹ Jill Pellew, 'Law and Order: expertise and the Victorian Home Office', in Roy Macleod (ed) *Government and Expertise: Specialists, administrators and professionals*, (Cambridge, 1988) pp. 59-72 at 67.

⁴⁰ Pellew, *The Home Office*, p.79. The division also included reformatories, industrial schools, and probation.

⁴¹ Pellew, *The Home Office*, p. 52.

⁴² TNA: HO45/9547/59343.

⁴³ Hynes, *The Edwardian Turn of Mind*, (Princeton, 1968) ch. 8.

⁴⁴ Cox et al, *Public Indecency in England 1857-1960*, pp. 45-47.

⁴⁵ Pat Thane, 'Late Victorian Women' in T. Gourvish and Alan O'Day, (eds), *Later Victorian Britain 1867-1900* (Basingstoke, 1988) pp. 186-7.

⁴⁶ Ibid.

⁴⁷ Hynes, *The Edwardian Turn of Mind*, p. 8.

⁴⁸ Daniel Grey, 'Women's Policy Networks and the Infanticide Act 1922', *Twentieth Century British History*, 21(4), (2010) 441-463 at p. 444.

⁴⁹ Pellow, *The Home Office*, p. 50.

⁵⁰ *The Times*, 28 March 1910. Also see Stefan Slater, 'Lady Astor and the Ladies of the Night: the Home Office, the Metropolitan Police and the Politics of the Street Offences Committee, 1927-1928' *Law and History Review*, 30(2) (2012) pp. 533-573.

⁵¹ The Rainbow circle was founded by Macdonald in 1894 to promote political and social discussion and took its name from The Rainbow tavern in Fleet Street where the group met.

⁵² According to Sir F. Banbury, *The Times*, 8 June 1912.

⁵³ *The Times*, 11 June 1912.

⁵⁴ Mr Booth, *The Times*, 8 June 1912.

⁵⁵ *The Times*, 11 May 1912.

⁵⁶ Ian Christopher Fletcher, 'Opposition by Journalism? The Socialist and Suffragist Press and the Passage of the Criminal Law Amendment Act of 1912', *Parliamentary History*, 25(1), (2006) 88-114 at p. 89.

⁵⁷ *The Times*, 15 October 1912.

⁵⁸ Parliamentary Papers, Arrangements of the Papers of the House of Commons and of the Papers Presented By Command, (1911) No. 348 and Public Bills, 5 December 1911.

⁵⁹ Sir Edward Troup, *The Home Office* (London, 1925), p. 204.

⁶⁰ The Home Office minutes reveal some sympathy to the suggestion but Troupe, who had heard it all before cautioned that 'we ought not to introduce the very controversial question of corporal punishment into this Bill.' TNA: HO45 10837/33148/63.

⁶¹ *The Times*, 2 July 1913.

⁶² *The Times*, 7 May 1914 HL Debates 6 May. He did display some awareness of their wider campaign suggesting that Parliament ‘might be able to better deal with infant mortality if wives and mothers were represented’

⁶³ Ibid.

⁶⁴ *Daily Express*, 25 June 1914; *Daily Mirror*, 26 June 1914.

⁶⁵ Helen Ware, ‘The recruitment, regulation and role of prostitution in Britain’, (unpublished PhD thesis, University of London, 1969), cited by Lucy Bland, ‘Cleansing the Portals of Life: the venereal disease campaign in the early twentieth century’, in Langan and Schwarz, *Crises in the British State 1880-1930*, p. 203.

⁶⁶ *The Times*, 30 April 1914.

⁶⁷ *The Times*, 17 July 1914. See also Jeffreys, *The Spinster and Her Enemies*, pp. 62-63.

⁶⁸ *The Times*, 15 March 1916.

⁶⁹ TNA: HO45 10837/33148.

⁷⁰ TNA: HO45 10837/33148/174.

⁷¹ Ibid.

⁷² Ibid.

⁷³ *The Times*, 16 March 1917; TNA: PRO HO45/10837/331148/1k.

⁷⁴ TNA: HO361664/1 amendments handed in 30 April to 3 May 1917, published 5 June.

⁷⁵ *The Times*, 7 July 1917.

⁷⁶ *The Times*, 3 August 1918.

⁷⁷ TNA: HO361664/9,10,27.

⁷⁸ TNA: HO361664/31.

⁷⁹ TNA: HO366164/31 28 May 1919.

⁸⁰ TNA: HO361664/33 18 Dec 1919 per Major Henderson.

⁸¹ TNA: 361664/37

⁸² TNA: HO 45/12250 which includes numerous suggestions and comments about different proposed ages.

⁸³ See Bruley, *Women in Britain Since 1900*, p. 70, she argues that post-1918 women (particularly working class women) accepted domesticity and to an extent the double moral standard in return for a rise in living standards (for most but not all) but more importantly it permitted them to develop their own feminine identity and cultural space which was accepted both by themselves and the outside world pp. 72-3.

⁸⁴ *The Times*, 16 July 1921.

⁸⁵ Ibid.

⁸⁶ *Daily Mirror*, 10 March 1921.